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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,322	01/04/2002	Johnny Jeng	103185-42324	3052
26345	7590	06/09/2004	EXAMINER	
GIBBONS, DEL DEO, DOLAN, GRIFFINGER & VECCHIONE 1 RIVERFRONT PLAZA NEWARK, NJ 07102-5497			GRAHAM, GARY K	
		ART UNIT	PAPER NUMBER	
		1744		

DATE MAILED: 06/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/040,322	JENG ET AL.
	Examiner Gary K Graham	Art Unit 1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 March 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1 and 2 is/are allowed.
- 6) Claim(s) 3-6 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, line 11, it appears “the gear rotates” should be ---the first gear rotates--- to avoid confusion since multiple gears have been set forth. Also, in line 13, there is no antecedent basis for “said motor gear”. It appears “motor” should be ---transition---.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Hirabayashi (U.S. patent 5,099,536).

The patent to Hirabayashi discloses the invention as is claimed. Note figure 1 which shows an electric toothbrush (10) having a housing (30) which acts as a handle, motor (32) mounted in said housing, switch (92) for operating said motor, motor shaft (38) mounted in said housing and connected to the motor for rotation thereby and toothbrush member (20) for coupling with said housing. The toothbrush member is configured to be inserted into the housing and has a drive shaft (54) therein for coupling at one end thereof with the motor shaft. At the other end of the drive shaft a transition gear (64) is provided for meshing with a first gear (66) which meshes with a second gear (67). The first and second gears rotate first and second shafts (66a,67a) which rotate brushes (74), respectively. Note that the front head case (22A) acts as a protective plate and is arranged to prevent foreign substances from contacting any of the first, second or transition gears. Such protective plate is arranged between the brushes (74) and the gears (66,67).

Claims 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Belaschk et al (2,140,307).

The patent to Belaschk discloses the invention as is claimed. Note figures 4 and 11 which show an electric toothbrush having a handle (10) with motor mounted therein, a switch (11) on said handle for operating said motor, a motor shaft (not numbered but shown) mounted in said handle and extending therefrom for connection with a removable brush head via

connecting member (12). The body member (49) is configured to be coupled with the handle and has a drive shaft (51) therein for coupling at one end thereof with the motor shaft. At the other end of the drive shaft a transition gear (52) is provided for meshing with a first gear (54) which meshes with a second gear (58). The first and second gears rotate first and second brushes (57,61), respectively. Note that plate (67) acts as a protective plate and is arranged to prevent foreign substances from contacting any of the first, second or transition gears. Such protective plate is arranged between the brushes (57,61) and the gears (54,58) as is claimed.

With respect to claims 5 and 6, note brush shafts (55,59) which will extend through openings in the plate, as illustrated in figure 1.

Response to Arguments

Applicant's arguments filed 29 March 2004 have been fully considered but they are not persuasive. Firstly, it is noted that applicant does not address the 112 rejection. Secondly, while applicant argues that Hirabayashi does not have a protective plate, as set forth above, it appears the front head case (22A) of Hirabayashi will act as and can be considered a protective plate. Note figure 10 wherein it can be seen that such plate provides protection to the gears as is claimed. Additionally, it appears the patent to Belaschek discloses a distinct protective plate as is claimed.

Allowable Subject Matter

Claims 1 and 2 are allowed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 1744

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary K Graham
Primary Examiner
Art Unit 1744